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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,164	12/07/2001	Takamune Oono	F05-138798M/ARK	9857
21254	7590	04/15/2005	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			KIM, CHONG HWA	
			ART UNIT	PAPER NUMBER
			3682	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/005,164

Applicant(s)

OONO ET AL.

Examiner

Chong H. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 9, 12-16, 18, 20-23 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 12-16, 18, 20-23, and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Feb 4, 2005 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outwardly swollen rigidity supplementing portion having a cylindrically-shaped portion as recited in claims 22, 23, and 26; and the semi-circular shape having a linear portion as recited in claims 24 and 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the

drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8, 9, 12-16, 18, 20-23, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nawata et al., U.S. Patent 6,112,615 in view of Kato, JP 9-254821.

Nawata et al. shows, in Figs. 1 and 4, a pedal bracket structure comprising;
a pedal bracket 30 fixed at a front end portion to a toe board 16;
a pedal lever 24 rotatably supported by a rear end portion of the pedal bracket via a pedal lever pivot 68;

wherein the pedal bracket comprises a rigidity supplementing portion in the front end portion 34 of the pedal bracket and a brittle portion 32 contiguous to and at a rear side of the rigidity supplementing portion;

wherein the brittle portion is ahead of the pedal lever pivot in a longitudinal direction of the pedal bracket;

a rigidity increasing member 36 between the pedal lever pivot and a vehicle body, and which is located at the rear of the pedal bracket;

wherein the outwardly swollen rigidity supplementing portion comprises a swollen bead;

wherein the outwardly swollen rigidity supplementing portion comprises a curved rib;

wherein the pedal bracket further comprises a rigidity supplementing plate (the flange portion where the fasteners 46 are attached) attached to the outwardly swollen rigidity supplementing portion;

wherein the brittle portion comprises a thin portion; and

wherein the outwardly swollen rigidity supplementing portion comprises a cylindrically-shaped portion (in this case, the Examiner is interpreting the "cylindrically-shaped portion" as being any part of a cylinder, whether it be a line or surface; therefore, the arc shaped line that is formed at the corner of the flange and the bracket 30 can be construed to be a cylindrically-shaped portion);

but fails to show a switch bracket having a saddle shape attached to the pedal bracket with a rigidity supplementing bracket.

Kato shows, in Figs. 1-21, a pedal bracket structure comprising; a rigidity increasing member (the upper portion of the bracket) between the pedal lever pivot 28 and a vehicle body, and which is located at the rear of the pedal bracket; wherein the rigidity increasing member comprising a switch bracket 32 fastened to the pedal bracket together with the pedal lever pivot and a rigidity supplementing bracket 38 disposed between the switch bracket and the vehicle

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body, wherein the rigidity supplementing bracket is aligned with and fixed to the switch bracket; wherein the switch bracket is saddle shaped;

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the switch bracket as taught by Kato in the pedal bracket structure of Nawata et al. in order to provide a safer driving condition by installing a stop lamp switch to turn on the brake light.

Response to Arguments

5. Applicant's arguments with respect to Kato reference teaching away from permitting the brake switch from turning on in the event of a front collision have been considered but are moot in view of the new ground(s) of rejection with a different motivation.

6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation can be found in the knowledge generally available to one of ordinary skill in the art.

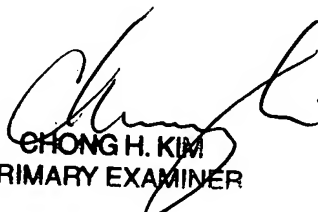
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Tuesday - Friday; 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk
April 6, 2005


CHONG H. KIM
PRIMARY EXAMINER